D A C  
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## CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:  
Date: August 19, 2005 Name: Scott W. Brim (51,500) Signature: Scott W. Brim

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HOFFER  
GILSON  
& LIONE

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Pierre Costa et al.

Appln. No.: 09/942,260

Filed: August 28, 2001

For: Method and System to Improve The  
Transport of Compressed Video Data

Attorney Docket No: 8285/448

Examiner: Shawn S. An

Art Unit: 2613

Mail Stop Patent Ext.  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

## TRANSMITTAL

Sir:

## Attached is/are:

Request for Reconsideration of Patent Term Adjustment  
 Return Receipt Postcard

## Fee calculation:

No additional fee is required.  
 Small Entity.  
 An extension fee in an amount of \$\_\_\_\_ for a \_\_\_\_-month extension of time under 37 C.F.R. § 1.136(a).  
 A petition or processing fee in an amount of \$\_\_\_\_ under 37 C.F.R. § 1.17(\_\_\_\_).  
 An additional filing fee has been calculated as shown below:

	Claims Remaining After Amendment	Minus	Highest No. Previously Paid For	Present Extra	Small Entity		Not a Small Entity		
					Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+\$360=	
					Total	\$	Total	\$	

## Fee payment:

A check in the amount of \$\_\_\_\_ is enclosed.  
 Please charge Deposit Account No. 23-1925 in the amount of \$\_\_\_\_. A copy of this Transmittal is enclosed for this purpose.  
 Payment by credit card in the amount of \$\_\_\_\_ (Form PTO-2038 is attached).  
 The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

  
Scott W. Brim (Reg. No. 51,500)

Date

8/19/05

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

August 19, 2005  
Date of Deposit

  
Signature

Attorney Docket No. 8285/448

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Pierre Costa et al.

Serial No.: 09/942,260

Filing Date: August 28, 2001

For: Method and System to Improve  
the Transport of Compressed  
Video Data

)  
)  
)  
)  
Examiner: Shawn S. An  
Group Art Unit: 2613

**REQUEST FOR RECONSIDERATION OF**  
**PATENT TERM ADJUSTMENT**  
**PURSUANT TO 37 C.F.R. § 1.705(b)**

Mail Stop Patent Ext  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

A notice of allowance was issued for the present application on May 24, 2005, indicating that the issue fee is due on August 24, 2005. The issue fee is being submitted

for the present application in conjunction with this request for reconsideration of the patent term adjustment. The Patent Application Information Retrieval (PAIR) system and the notice of allowance both indicate a patent term adjustment that was calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 of 599 days. A copy of Notice of Allowance for the present application is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be 598 days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Please charge the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for the present application was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney believe that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for the present application as described in detail below. The present application is not subject to a terminal disclaimer.

**Period of adjustment pursuant to 37 C.F.R. § 1.703**

**Period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after that date that is fourteen

months after the date on which the application was filed pursuant to 35 U.S.C. § 111(a), or fulfilled the requirements pursuant to 35 U.S.C. § 371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. § 132 or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first.

The present application was filed on August 28, 2001. The 14 month date specified in 37 C.F.R. § 1.703(a) is October 28, 2002. According to the PAIR system Patent Term Adjustment History, attached as Exhibit B, the first action on the merits by the U.S. Patent and Trademark office in the present application was a requirement for restriction mailed on June 23, 2004 as evidenced by the copy of the requirement for restriction attached as Exhibit C. Thus, Applicant's Attorney believes that the difference between the 14 month date and the date of mailing of the first action on merits is 604 days.

#### **Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704**

##### **Period of adjustment pursuant to 37 C.F.R. § 1.704(b)**

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

In the present application, an office action was mailed on September 28, 2004 (attached as Exhibit D). The 3 month date was therefore December 28, 2004. A response by the Applicant's Attorney to the office action was filed with the U.S. Patent and

Trademark office on January 3, 2005 as evidenced by the post card attached as Exhibit E. However, the date the response was filed is indicated in the PAIR system Patent Term Adjustment History, attached as Exhibit B as received on January 2, 2005. Thus, Applicant's Attorney believes that the difference between the 3-month date of the office action mailed September 28, 2004 and Applicant's response to the office action mailed September 28, 2004 is 6 days. Applicant's Attorney respectfully requests correction of the date of receipt of the reply and re-calculation of the patent term adjustment taking the corrected date into account.

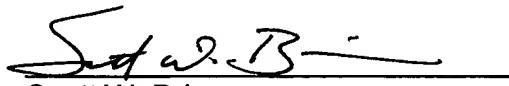
**Total patent term adjustment**

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be 604 days - 6 days = 598 days, instead of 599 days indicated on the Notice of Allowance attached as Exhibit A.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned

attorney for the Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

  
\_\_\_\_\_  
Scott W. Brim  
Registration No. 51,500  
Attorney for Applicants

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

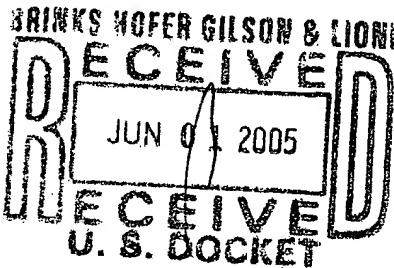


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## NOTICE OF ALLOWANCE AND FEE(S) DUE

00757 7590 05/24/2005  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610



EXAMINER	
AN, SHAWN S	
ART UNIT	PAPER NUMBER
2613	
DATE MAILED: 05/24/2005	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,260	08/28/2001	Pierre Costa	8285/448	6291

TITLE OF INVENTION: METHOD AND SYSTEM TO IMPROVE THE TRANSPORT OF COMPRESSED VIDEO DATA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	08/24/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,260	08/28/2001	Pierre Costa	8285/448	6291
00757	7590	05/24/2005	EXAMINER	
			AN, SHAWN S	
		ART UNIT		PAPER NUMBER
		2613		
DATE MAILED: 05/24/2005				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 599 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 599 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



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**Patent Term Adjustment (PTA) for application number: 09/942,260**

			Days
Filing or 371(c) Date:	08-28-2001	USPTO Delay (PTO):	604
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	5
Post-Issue Petitions (days):	+0	Total PTA:	599
USPTO Adjustment (days):	+0	Explanation of Calculations	

Select Search Option

Assignments  
 Continuity Data  
 Display References  
 File History  
 Image File Wrapper  
 Publication Review

**Patent Term Adjustment History**

Date	Contents Description	PTO (days)	APPL (days)
05-24-2005	Mail Notice of Allowance		
05-19-2005	Issue Revision Completed		
05-19-2005	Notice of Allowance Data Verification Completed		
05-19-2005	Notice of Allowability		
05-18-2005	Date Forwarded to Examiner		
05-09-2005	Amendment after Final Rejection		
04-11-2005	Mail Final Rejection (PTOL - 326)		
04-08-2005	Final Rejection		
10-25-2004	Reference capture on IDS		
12-20-2004	Reference capture on IDS		
02-05-2005	Date Forwarded to Examiner		
01-02-2005	Response after Non-Final Action	5	
12-20-2004	Information Disclosure Statement (IDS) Filed		
10-25-2004	Information Disclosure Statement (IDS) Filed		
01-03-2005	Workflow incoming amendment IFW		
09-28-2004	Mail Non-Final Rejection		
09-27-2004	Non-Final Rejection		
09-02-2004	IFW TSS Processing by Tech Center Complete		
09-02-2004	Date Forwarded to Examiner		
07-19-2004	Response to Election / Restriction Filed		
12-10-2001	Oath or Declaration Filed (Including Supplemental)		
01-23-2003	Reference capture on IDS		
12-10-2001	Reference capture on IDS		
06-23-2004	Mail Restriction Requirement	604	

06-23-2004	Requirement for Restriction / Election		
01-23-2003	Information Disclosure Statement (IDS) Filed		
12-10-2001	Information Disclosure Statement (IDS) Filed		
02-09-2002	Case Docketed to Examiner in GAU		
12-17-2001	Application Dispatched from OIPE		
12-14-2001	Application Is Now Complete		
10-02-2001	Notice Mailed—Application Incomplete—Filing Date Assigned		
10-01-2001	Correspondence Address Change		
09-06-2001	IFW Scan & PACR Auto Security Review		
08-28-2001	Initial Exam Team nn		

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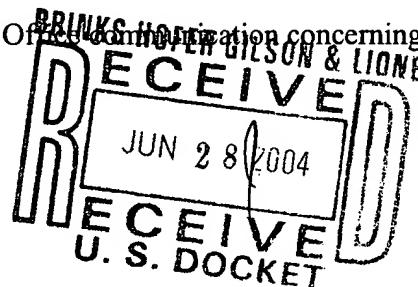
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,260	08/28/2001	Pierre Costa	8285/448	6291

757            7590            06/23/2004  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

EXAMINER	
AN, SHAWN S	
ART UNIT	PAPER NUMBER
2613	6

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/942,260	COSTA ET AL.
Examiner	Art Unit	
Shawn S An	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) 1-19 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date ____	6) <input type="checkbox"/> Other: ____

## DETAILED ACTION

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

**Species I:** Fig. 2 (flow chart of an embodiment of a method of improving the transport of compressed video data);

**Species II:** Fig. 4 (flow chart of an embodiment of a method performed at a receiver);

**Species III:** Fig. 5 (block diagram of an embodiment of a system to perform methods).

Applicant is required under 35 U.S.C. 121 to elect a **single** disclosed species on the basis of the corresponding figures listed above, and to indicate to the Examiner which of the claims 1-19 read on the elected figure of the disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

### **Conclusion**

2. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Shawn S An** whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).
3. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSA

  
Primary Patent Examiner

6/22/04



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,260	08/28/2001	Pierre Costa	8285/448	6291

757            7590            09/28/2004

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

RECEIVED  
OCT 04 2004  
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U. S. DOCKET

EXAMINER
----------

AN, SHAWN S

ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/942,260	COSTA ET AL
	<b>Examiner</b>	<b>Art Unit</b>
	Shawn S An	2613

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 19 July 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 10-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 10-16 is/are allowed.

6) Claim(s) 17-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/10/01, 1/23/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Restriction/Election***

1. Applicants' election without traverse of species III corresponding to figure 5, claims 10-19 as filed on 7/19/2004 has been acknowledged. Furthermore, Applicants are canceling claims 1-9, which read upon non-elected species.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 17-19 recite the limitation "the second representation". There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Haskell et al (5,159,447).

**Regarding claim 17,** Haskell et al discloses a system for reconstructing an image sequence encoded in a VBR representation comprising blocks of information defining time intervals  $T_p$  (Fig. 5; Pack, P(i+1)1, in Stream e) in which number of blocks of information per unit time is greater than baseline ( $R(i)$ ), and  $T_n$  ( $T/4$ ) in which number

of blocks of information per unit time is less (Packs, Pi1, Pi2, Pi3, Pi4, in Stream d) than the baseline, the system comprising:

A receiver (Fig. 1, 45) for receiving a representation of the image sequence via the communication network;

A buffer (40);

A processor (50) for reconstructing frames of image sequence concurrently with the representation being received;

Wherein during the time interval  $T_n$ , the processor reconstructs frames of the image sequence based on blocks of information  $B_n$  received about in real time (col. 11, lines 25-28), and to store the blocks of information  $B_p$  in the buffer (40); and

Wherein during the time interval  $T_p$ , the processor reconstructs frames of the image sequence based on blocks of information  $B_p$  stored in the buffer (40) and blocks of information received about in real time (Fig. 5, see decoded access units in pack i).

#### ***Allowable Subject Matter***

6. Claims 10-16 are allowed.

7. The following is an examiner's statement of reasons for allowance:

**claims 10-16** recite the novel feature of a system, comprising:

an encoder to provide a VBR representation of an image sequence, the VBR representation comprising a plurality of block information; and

a processor to determine a plurality of time intervals  $T_p$  within the VBR representation in which a number of blocks of information per unit time is greater than a baseline value to determine a plurality of time intervals  $T_n$  within the VBR representation in which a number of blocks of information per unit time is less than the baseline value, and to create a second representation of the image sequence in which some blocks of information  $B_p$  are removed from the time interval  $T_p$  and interlaced with blocks of information  $B_n$  in the time intervals  $T_n$  to reduce a variation in a number of blocks of information per unit time between the time intervals  $T_p$  and  $T_n$ .

The art of record fails to anticipate or make obvious the novel features as specified in these claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.
  - A) Zhu et al (5,534,937), Minimum delay jitter smoothing device and method for packet video communications.
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Shawn S An whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).
10. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SSA

Primary Patent Examiner

9/26/04



FORM PTO-1449

SERIAL NO. 09/942,260	CASE NO. 8285-448
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	
(use several sheets if necessary)	
FILING DATE August 28, 2001	GROUP ART UNIT 2631
APPLICANT(S): Costa et al.	

## REFERENCE DESIGNATION

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
<i>Jet</i>	A1	US 2002/0019966 A1	02/2002	Yagil et al.	_____	_____
<i>Jet</i>	A2	US 2002/0044603 A1	04/2002	Rajagopalan et al.	_____	_____
<i>Jet</i>	A3	US 2002/0078465 A1	06/2002	Stahl et al.	_____	_____
<i>Jet</i>	A4	US 2002/0129375 A1	09/2002	Kim et al.	_____	_____

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EXAMINER <i>[Signature]</i>	DATE CONSIDERED <i>9/26/04</i>
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609;  
Draw line through citation if not in conformance and not considered. Include copy of this form with next  
communication to applicant.

**Notice of References Cited**

Application/Control No.

09/942,260

Applicant(s)/Patent Under

Reexamination

COSTA ET AL.

Examiner

Shawn S An

Art Unit

2613

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,159,447	10-1992	Haskell et al.	375/240.05
	B	US-5,534,937	07-1996	Zhu et al.	375/240.27
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Serial No. 09/942,260  
Applicant: PIERRE COSTA ET AL.  
Client/Matter No.: 8285/448

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